



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. MCTIGUE
DIRECTOR

January 13, 1988
AO-89-04

James C. O'Connell
101 Caseland Street
Springfield, MA 01107

Dear Mr. O'Connell:

This letter is in response to your request for an advisory opinion concerning the application of M.G.L. c.55 to your political activities as a public employee.

You have stated that you are Deputy Executive Director of the Springfield Redevelopment Authority. You intend to run for the Springfield City Council in the fall of 1989.

Section 13 of M.G.L. c.55 states:

No person employed for compensation, other than an elected officer, by the commonwealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever, but this section shall not prevent such persons from being members of political organizations or committees. The soliciting or receiving of any gift, payment, contribution, assessment, subscription or promise of money or other thing of value by a non-elected political committee organized to promote the candidacy for public office of a person so employed for compensation by the commonwealth or any county, city or town, shall not be deemed to be a direct or indirect solicitation or receipt of such contribution by such person; provided, however, that no such gift, payment, contribution, assessment, subscription or promise of money or other thing of value may be solicited or received on behalf of such a person from any person or combination of persons if such person

so employed knows or has reason to know that the person or combination of persons has an interest in any particular matter in which the person so employed participates or has participated in the course of such employment or which is subject of his official responsibility.

You have asked what requirements must be met under M.G.L. c.55 for you to campaign and fundraise. We have attempted to offer advice on these matters by answering the following questions:

1. Are you permitted to continue your employment with the City of Springfield until such time as you may have to resign if elected to the office you seek?

No provision of M.G.L. c.55, including section 13, mandates that a public employee relinquish his or her employment in order to seek elected office. You may not, however, solicit contributions directly or indirectly, in person or in writing, while so employed. If you were to take an unpaid leave of absence of four months or more before the primary election, you would not be considered "employed for compensation" by this office and therefore not subject to prohibitions of section 13 of M.G.L. c.55.

We would also advise you to examine other regulations or policies which may be applicable to you, such as those that may be promulgated pursuant to the city charter, the Redevelopment Authority and/or the Executive Office of Communities and Development.

2. May your campaign finance committee solicit and receive funds or anything of value on behalf of your candidacy from public employees?

Your campaign finance committee may solicit and receive contributions for your candidacy from public employees, subject to the prohibition in section 13 of M.G.L. c.55 against the solicitation or receipt of funds "from any person or combination of persons if such person so employed knows or has reason to know that the person or combination of persons has an interest in any particular matter in which the person so employed participates or has participated in the course of such employment or which is the subject of his official responsibility".

You should be aware, however, of the following provisions in the law:

Section 14 of M.G.L. c.55 states: "No person shall in any building or part thereof occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value for purposes set forth

James C. O'Connell
January 13, 1989
Page 3

in section thirteen."

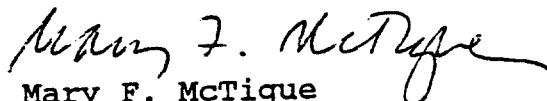
Section 16 of M.G.L. c.55 states: "No person in the public service shall, for that reason, be under obligation to contribute to any political fund, or to render any political service, and shall not be removed or otherwise prejudiced for refusing to do so."

Section 17 of M.G.L. c.55 states: "No officer or employee of the commonwealth or of any county, city or town shall discharge, promote, or degrade an officer or employee, or change his official rank or compensation, or promise or threaten so to do, for giving, withholding or neglecting to make a contribution of money or other valuable thing for a political purpose."

This opinion has been rendered solely on the basis of representations made in your letter and solely in the context of M.G.L. c.55. If the agency for which you work receives federal funds, you may be subject to restrictions under federal law in addition to those imposed by state law. You may therefore wish to contact the U.S. Merit Systems Protection Board at telephone number 800/872-9855 with any questions you may have concerning the application of such federal law.

Please do not hesitate to contact this office should you have additional questions.

Very truly yours,


Mary F. McTigue
Director

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